

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 199

Introduced by Wickersham, 49; Connealy, 16; Dierks, 40; Matzke, 47

Read first time January 11, 1999

Committee: Health and Human Services

A BILL

- 1 FOR AN ACT relating to public health and welfare; to amend section
- 2 71-7613, Revised Statutes Supplement, 1998; to redefine a
- 3 term relating to nursing facility conversion; and to
- 4 repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-7613, Revised Statutes Supplement,
2 1998, is amended to read:

3 71-7613. (1) For purposes of this section:

4 (a) Alternatives to nursing facility care means those
5 services included in the program of home and community-based waiver
6 services for aged persons or adults or children with disabilities
7 under the medical assistance program established pursuant to
8 section 68-1018;

9 (b) Conversion means (i) the remodeling of existing space
10 and, if necessary, the construction of additional space required to
11 accommodate assisted-living facility services or other alternatives
12 to nursing facility care or (ii) new construction of an
13 assisted-living facility or other alternative to nursing facility
14 care if existing nursing facility beds are no longer licensed and
15 the Department of Health and Human Services Finance and Support
16 determines that new construction is more cost effective than the
17 conversion of existing space; and

18 (c) Nursing facility means (i) a facility licensed as a
19 nursing facility, a skilled nursing facility, or an intermediate
20 care facility as such terms are defined in section 71-2017.01, (ii)
21 ~~or~~ a long-term care hospital or a distinct part of a hospital, as
22 such terms are defined in section 71-2017.01, which is primarily
23 devoted to providing the care and services enumerated in
24 subdivision (10), (11), or (20) of section 71-2017.01, or (iii) a
25 hospital as defined in section 71-2017.01 which is eligible to have
26 swing beds, but nursing facility does not include an intermediate
27 care facility for the mentally retarded as defined in section
28 71-2017.01. For purposes of this subdivision, swing beds means

1 beds which may be used for acute or long-term care in a facility
2 under Title XVIII of the federal Social Security Act, as amended,
3 located in an area which is not designated as urban by the United
4 States Bureau of the Census and with up to fifty beds, excluding
5 beds for newborns and intensive-care-type inpatient units.

6 (2) The Department of Health and Human Services Finance
7 and Support, with the advice of the Policy Cabinet created in
8 section 81-3009 and the Nursing Home Advisory Council, shall award
9 grants or make guarantees of loans from the Nursing Facility
10 Conversion Cash Fund for capital or one-time expenditures,
11 including, but not limited to, startup and training expenses and
12 operating losses for the first year, to any nursing facility which
13 has been approved for at least three years as a provider under the
14 medical assistance program established pursuant to section 68-1018
15 to convert all or a portion of the facility licensed to provide
16 such care to a licensed assisted-living facility or to other types
17 of alternatives to nursing facility care.

18 (3) During each calendar year in which grants or loan
19 guarantees are available under this section, the department, with
20 the advice of the Policy Cabinet and the Nursing Home Advisory
21 Council, shall award grants or make guarantees of loans first to
22 governmental nursing facilities, second to nonprofit nursing
23 facilities, and then to other nursing facilities. A
24 nongovernmental nursing facility shall only be eligible for a grant
25 or loan guarantee for conversion to assisted-living services if it
26 is located in underserved areas as determined by the department and
27 if no governmental nursing facility can or is willing to be
28 converted. To be eligible for a grant or loan guarantee under this

1 section, the nongovernmental nursing facilities shall provide
2 twenty percent of the total cost of any conversion. The department
3 shall establish policies and procedures for certification of the
4 required matching funds. The department shall annually establish a
5 calendar for receiving and evaluating proposals and awarding grants
6 or making loan guarantees.

7 (4) No grant or loan guarantee application shall be
8 approved by the department unless (a) the applicant can demonstrate
9 that (i) conversion of the nursing facility or portion of the
10 facility to an assisted-living facility or other alternatives to
11 nursing facility care will offer efficient and economical care to
12 individuals requiring long-term care services in the area, (ii)
13 assisted-living services or other alternatives to nursing facility
14 care are unlikely to be available in the area for individuals
15 eligible for services under the medical assistance program
16 established pursuant to section 68-1018, and (iii) the resulting
17 reduction in the availability of nursing facility services is not
18 expected to cause undue hardship on those individuals requiring
19 nursing facility services, and (b) the department can demonstrate
20 that the conversion will result in a lower reimbursement rate under
21 the medical assistance program established under section 68-1018
22 from the State of Nebraska to the applicant. No grant shall be
23 awarded or loan guarantee made unless the applicant agrees to
24 maintain a minimum occupancy rate by individuals eligible for
25 services under the medical assistance program established pursuant
26 to section 68-1018 and, in the event the applicant or its successor
27 in interest ceases to operate an assisted-living facility or other
28 alternative to nursing facility care during the ten-year period

1 after the date the applicant began operation of its facility as an
2 assisted-living facility or other alternative to nursing facility
3 care, to refund to the Nursing Facility Conversion Cash Fund, on an
4 amortized basis, the amount of the grant or loan guarantee. In
5 addition to other remedies provided by law, the department may
6 deduct the amount of any refund due from a recipient of grant or
7 loan guarantee funds from any money owed by the department to such
8 recipient or the recipient's successor in interest.

9 (5) The department shall adopt and promulgate rules and
10 regulations which establish (a) an application process for grants
11 or loan guarantees, (b) criteria for nursing facilities to receive
12 funding, including, but not limited to, minimum occupancy rates,
13 allowable costs, and refund methods, (c) criteria for the rates and
14 amounts of funding, and (d) other procedures as the department
15 deems necessary for the proper administration of this section.

16 (6) This section does not create an entitlement to any
17 funds available for grants or loan guarantees under this section,
18 and the department may award grants or make loan guarantees to the
19 extent funds are available and, within its discretion, to the
20 extent such applications are approved.

21 (7) Nongovernmental recipients of grants and loan
22 guarantees under this section shall annually submit cost reports to
23 the department regarding the conversion project for a period of ten
24 years after the date the recipient began operation of its facility
25 as an assisted-living facility or other alternative to nursing
26 facility care. The department shall develop the cost report which
27 shall include, but not be limited to, revenue, costs, loans
28 undertaken by the facility, fixed assets of the facility, a balance

1 sheet, and a profit and loss statement.

2 (8) The department shall provide annual reports to the
3 Governor and the Legislature concerning grants awarded or loan
4 guarantees made under this section. Each report shall include the
5 number of applicants and approved applicants, an overview of the
6 various grants awarded or loan guarantees made, and detailed
7 reports of the cost of each project funded by a grant or loan
8 guarantee and information received under subsection (7) of this
9 section.

10 (9) It is the intent of the Legislature to review
11 projects which receive grants or loan guarantees under this section
12 to ensure that the goal to provide alternatives to traditional
13 long-term care services is being met and that an adequate number of
14 nursing facility services remain to meet the needs of Nebraskans.
15 After January 1, 2002, no money shall be allocated for conversion
16 of nursing facilities to assisted-living facilities or other
17 alternatives to nursing facility care under this section without
18 reaffirmation of this program by the Legislature. Money allocated
19 for the purpose of conversion before January 1, 2002, may be
20 awarded to eligible applicants.

21 Sec. 2. Original section 71-7613, Revised Statutes
22 Supplement, 1998, is repealed.